

EXHIBIT D

MARK LAPLANTE 12/16/2014

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1 UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
2 SOUTHERN DIVISION
3

4 JOSEPH JERMANO, et al.,
5 Plaintiffs,

6 vs. CASE NO. 13-10610

7 GRACO CHILDREN'S PRODUCTS, INC.,
8 Defendant.
9

10 VIDEOTAPED DEPOSITION OF MARK LAPLANTE

11 December 16, 2014 - 9:04 a.m.

12 Schiff Hardin, LLP

13 1201 West Peachtree Street

14 Suite 2300

15 Atlanta, Georgia
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<p>1 recognize those as three various designs that Graco 2 has used on the turbobooster, high back 3 turbobooster, over the years?</p> <p>4 A. Yes.</p> <p>5 Q. Was the specific design of any of those 6 belt guides mandated in any way by the Federal 7 government?</p> <p>8 A. Insofar as that we have to make sure that 9 the booster itself will still meet the government 10 regulations for the injury during a crash event.</p> <p>11 Q. Sure. No, I understand that. I'm not 12 talking about the general 213 requirements. I'm 13 talking about the specific design of those parts. 14 Was the specific design of any of those three parts 15 mandated in any way by the government?</p> <p>16 A. No.</p> <p>17 Q. All right. So those three parts reflect 18 design decisions made by Graco and its engineers?</p> <p>19 A. That's correct.</p> <p>20 Q. Now, sir, in February of 2013 your 21 lawyers, Mr. Krasovec's firm, filed a written 22 submission with a federal judge in this case in 23 which they represented that you have been involved 24 in the manual for the turbobooster. Were you aware 25 of that?</p>	<p>1 Shenk. Mr. Gerhart, you know Steve Gerhart?</p> <p>2 A. Yes.</p> <p>3 Q. Mr. Gerhart's already been deposed, and he 4 told us a few weeks ago that he drafted the first 5 sort of iteration or version of the owners manual. 6 But what has been -- so now having looked at this 7 letter from Mr. Krasovec's partner, what, tell me 8 what your involvement has been in the manual.</p> <p>9 A. So like it says here, subsequent versions 10 were created in Graco Atlanta, Elverson and Exton 11 office, that's correct. Leigh Ann would normally, 12 Leigh Ann Shenk would normally do the creation and I 13 would do the approvals of the manual, make sure all 14 the government necessary items are in there. And so 15 there was other people involved in that, too, but 16 that's the type of thing that would happen.</p> <p>17 Q. And so that would be any manual that would 18 have accompanied the turbobooster after obviously 19 you started at Graco in 2004?</p> <p>20 A. Yes.</p> <p>21 Q. And you've personally reviewed and looked 22 through all the manuals that have accompanied the 23 turbobooster since you started?</p> <p>24 A. Yes.</p> <p>25 Q. Graco's told me in this case that the</p>
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<p>1 A. So you're saying that I was involved with 2 like approving it or something like that?</p> <p>3 Q. Oh I don't know. Graco's lawyers told us 4 and a judge that you had some involvement with it, 5 so I'm here to ask you what that involvement was?</p> <p>6 A. Probably -- okay, what year did you say it 7 was?</p> <p>8 Q. What year was what?</p> <p>9 A. That I had this involvement.</p> <p>10 Q. They said -- well let's just take a look 11 at it here. I'll let you read it and maybe you can 12 interpret it for me. I'll hand you what's been 13 marked as Exhibit 20. And the reference to you, 14 sir, is in the very last paragraph on page three. 15 And we know that the original owners manual of 16 course was created back in the 2001-2002 timeframe 17 before you started with the company.</p> <p>18 A. That's right. That's why I'm trying to be 19 careful about what I say, because I wasn't 20 originally there when they first started the first 21 manual.</p> <p>22 Q. Right. In talking about the manual they 23 say, in the very second to last sentence they say, 24 current employees with involvement in the manual and 25 marketing materials are Mark LaPlante and Leigh Ann</p>	<p>1 manual that would have come with -- strike that. 2 This case involves a car seat, a booster seat that 3 was manufactured in November of 2009. All right? 4 And Graco has indicated to us in this case that the 5 manual that would have accompanied that seat was 6 manufactured or would have had a date on it of 7 October of 2007. Okay?</p> <p>8 A. Okay.</p> <p>9 Q. I'm going to hand you what's been marked 10 as Exhibit No. 24.</p> <p>11 A. Okay.</p> <p>12 Q. And I'll ask you to just take a look at 13 that and tell me if you're familiar with it or not?</p> <p>14 A. Yes.</p> <p>15 Q. And your involvement in it would have been 16 to review it for accuracy, compliance of 213, things 17 of that nature?</p> <p>18 A. That's correct.</p> <p>19 Q. Now I'm going to show you another manual I 20 have and I'm just, we're just going to talk about 21 this for one second here. This has been marked as 22 Exhibit No. 24C. This is a manual for the 23 turbobooster that is dated February of 2012. Do you 24 see that?</p> <p>25 A. Yes.</p>

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<p>1 Q. Would you have reviewed that manual as</p> <p>2 well and your involvement been basically the same?</p> <p>3 A. Yes.</p> <p>4 Q. We're not going -- I just wanted to</p> <p>5 identify that for the record.</p> <p>6 A. Okay.</p> <p>7 Q. Now I want you to keep this in front of</p> <p>8 you here. When you would have reviewed the</p> <p>9 October 2007 version of that manual, I take it you</p> <p>10 would have been living up in Pennsylvania?</p> <p>11 A. Yes.</p> <p>12 Q. Is that, that's correct?</p> <p>13 A. Yes.</p> <p>14 Q. And did you do anything with the manual in</p> <p>15 terms of its specific content? Did you draft the</p> <p>16 actual sentences that were in there or the</p> <p>17 illustrations or did you basically just review it</p> <p>18 and essentially bless it on behalf of Graco's</p> <p>19 compliance team?</p> <p>20 MR. KRASOVEC: Object to the form of the</p> <p>21 question.</p> <p>22 BY MR. GENTILE:</p> <p>23 Q. Let me reask the question. Did you have</p> <p>24 any involvement in the creation of the illustrations</p> <p>25 in the manual that's in front of you?</p>	<p>1 have that with me, but just looking at it quickly I</p> <p>2 would say I don't see anything that looks like it is</p> <p>3 false or misleading.</p> <p>4 BY MR. GENTILE:</p> <p>5 Q. Have you ever, to your knowledge, approved</p> <p>6 a manual for production or to be distributed to</p> <p>7 consumers with production seats that you knew had</p> <p>8 false or misleading information in it?</p> <p>9 MR. KRASOVEC: Object to the form of the</p> <p>10 question.</p> <p>11 A. No.</p> <p>12 BY MR. GENTILE:</p> <p>13 Q. Have you approved on product labeling that</p> <p>14 contained information regarding the turbobooster</p> <p>15 that was false or misleading?</p> <p>16 MR. KRASOVEC: Same objection.</p> <p>17 A. No.</p> <p>18 BY MR. GENTILE:</p> <p>19 Q. What is the purpose of that manual that</p> <p>20 you're holding in your hand, sir?</p> <p>21 A. To try to instruct the parents or the</p> <p>22 caregivers as to how to install the seat and use it</p> <p>23 with the child.</p> <p>24 Q. Can we agree that it contains and conveys</p> <p>25 important information to parents who buy the</p>
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<p>1 A. No.</p> <p>2 Q. Did you have any specific drafting</p> <p>3 responsibility in terms of writing what's stated in</p> <p>4 the manual?</p> <p>5 A. No.</p> <p>6 Q. But you would have reviewed the manual, as</p> <p>7 you've already testified to I think, in terms of</p> <p>8 its, from a compliance standpoint and insured that</p> <p>9 everything in there, there was nothing misleading,</p> <p>10 there was nothing that was false, everything</p> <p>11 complied with whatever requirements applied to it?</p> <p>12 MR. KRASOVEC: Object to the form of the</p> <p>13 question.</p> <p>14 BY MR. GENTILE:</p> <p>15 Q. Is that correct, sir?</p> <p>16 A. That's correct.</p> <p>17 Q. And take a moment if you need to, sir, to</p> <p>18 look at it. Is there any information in the 2007</p> <p>19 edition of the turbobooster manual that is false or</p> <p>20 misleading to consumers?</p> <p>21 MR. KRASOVEC: Object to the form of the</p> <p>22 question.</p> <p>23 A. So normally I would have a checklist of</p> <p>24 items that I would look for and a checklist is</p> <p>25 basically comprised of a summary of 213. So I don't</p>	<p>1 turbobooster?</p> <p>2 A. Yes.</p> <p>3 Q. Can we agree that the manual provides</p> <p>4 accurate information to parents on how to properly</p> <p>5 use the turbobooster?</p> <p>6 A. Yes.</p> <p>7 Q. Now I told you before I was low tech and I</p> <p>8 meant it. I'm going to put up my trusty exhibit</p> <p>9 holder here. We're not going to use that, actually</p> <p>10 we're going to use something a little bit different.</p> <p>11 Look at the cover of that -- and I'm going to put</p> <p>12 the cover up here for the jury to read -- and can</p> <p>13 you read for us, sir, what it says on the cover down</p> <p>14 under Read This Manual.</p> <p>15 A. Do not install or use this car seat until</p> <p>16 you have read and understand the instructions in</p> <p>17 this manual. Failure to properly use this car seat</p> <p>18 increases the risk of serious injury or death in a</p> <p>19 sudden stop or crash.</p> <p>20 Q. Is that a true statement? In other words,</p> <p>21 does the failure to use the turbobooster in</p> <p>22 accordance with Graco's instructions increase the</p> <p>23 risk of serious injury or death in a crash?</p> <p>24 A. To my knowledge, that's a true statement.</p> <p>25 Q. All right. Now turn, if you will, sir, to</p>

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<p>1 pages 26 through 29 in that manual. Are you there?</p> <p>2 A. I am.</p> <p>3 MR. KRASOVEC: Can I -- I don't have a</p> <p>4 copy.</p> <p>5 MR. GENTILE: Oh, I'm sorry. Joe, we're</p> <p>6 going to talk about those pages, 26 through 29.</p> <p>7 MR. KRASOVEC: Okay.</p> <p>8 BY MR. GENTILE:</p> <p>9 Q. All right. Mr. LaPlante, have you had an</p> <p>10 opportunity to look at pages 26 through 29 of the</p> <p>11 2007 version of the turbobooster's owners manual?</p> <p>12 A. Yes.</p> <p>13 Q. And what is the, what is this particular</p> <p>14 section of the manual entitled?</p> <p>15 A. Securing your child in vehicle.</p> <p>16 Q. And this particular section is for the</p> <p>17 high back version of the turbobooster; is that</p> <p>18 correct?</p> <p>19 A. That's correct.</p> <p>20 Q. Is it Graco's expectation that parents</p> <p>21 will read this section of the manual before they use</p> <p>22 the high back turbobooster?</p> <p>23 A. Yes, it is.</p> <p>24 Q. Is it Graco's expectation that parents</p> <p>25 will follow the instructions in this section of the</p>	<p>1 A. Correct.</p> <p>2 Q. And then number two is you put your child</p> <p>3 in the seat with their back flat against the booster</p> <p>4 seat; is that right?</p> <p>5 A. That's correct.</p> <p>6 Q. Number three says in bold letters,</p> <p>7 position shoulder belt through the shoulder belt</p> <p>8 guide shown in No. 2, right?</p> <p>9 A. That's correct.</p> <p>10 Q. It says, not as shown in No. 3; is that</p> <p>11 right?</p> <p>12 A. That's correct.</p> <p>13 Q. And that shoulder belt guide is the same,</p> <p>14 that's at least one version of it are the parts that</p> <p>15 are there on the table in front of you; is that</p> <p>16 correct?</p> <p>17 A. That's correct.</p> <p>18 Q. And in fact, when it says not as shown in</p> <p>19 No. 3, that's bold and in caps; is that right?</p> <p>20 A. That's correct.</p> <p>21 Q. And there's a big circle drawn through</p> <p>22 that not drawing with a line through it and it shows</p> <p>23 specifically that it's incorrect, even if the</p> <p>24 shoulder belt is on the shoulder, it is incorrect to</p> <p>25 not have the belt in the guide, true?</p>
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<p>1 manual when they secure a child in a vehicle using a</p> <p>2 high back turbobooster?</p> <p>3 A. Yes.</p> <p>4 Q. Are the suggestions in this section of the</p> <p>5 manual merely suggestions for parents to follow for</p> <p>6 proper use or are they mandatory in Graco's view for</p> <p>7 proper use?</p> <p>8 MR. KRASOVEC: Object to the form of the</p> <p>9 question.</p> <p>10 A. Mandatory.</p> <p>11 BY MR. GENTILE:</p> <p>12 Q. Would it be fair to say that this section</p> <p>13 of the manual is essentially a specific set of rules</p> <p>14 for parents to follow without exception when</p> <p>15 securing a child in a vehicle with a high back</p> <p>16 turbobooster?</p> <p>17 A. Yes, I would say that's correct.</p> <p>18 Q. All right. I'm going to put up, you can</p> <p>19 keep that in front of you but I'm going to put up</p> <p>20 pages 26 and 27 for the jury to see and I have some</p> <p>21 questions about this. Graco instructs parents --</p> <p>22 first of all, obviously step one is to put the</p> <p>23 booster seat firmly against the back of a forward</p> <p>24 facing vehicle seat equipped with a lap shoulder</p> <p>25 belt only; is that right?</p>	<p>1 A. That's correct.</p> <p>2 Q. Now if you flip to page four -- I'm sorry,</p> <p>3 page 28, step four -- step No. 4 says that the</p> <p>4 correct use is not only in the guide but with the</p> <p>5 shoulder belt on the shoulder of the child, and we</p> <p>6 can see that in the depiction on that which is shown</p> <p>7 in No. 5, right, there's a little red square that</p> <p>8 shows where the shoulder belt is supposed to go?</p> <p>9 A. Correct.</p> <p>10 Q. That's correct? And again, of course the</p> <p>11 shoulder belt is shown in the belt guide; is that</p> <p>12 true?</p> <p>13 A. That's true.</p> <p>14 Q. And again, there are several drawings that</p> <p>15 show incorrect ways to install a shoulder belt, a</p> <p>16 child in the vehicle, and the lower right-hand</p> <p>17 diagram on page 29 again shows the big circle with</p> <p>18 the line through it, the belt is outside the guide,</p> <p>19 although it's still on the shoulder it's outside the</p> <p>20 guide and Graco's position is that is incorrect; is</p> <p>21 this true?</p> <p>22 A. That's correct.</p> <p>23 Q. Now, sir, the manual that you're holding</p> <p>24 there in front of you is roughly 40 pages long at</p> <p>25 least, there's an English and Spanish version of it,</p>

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<p>1 the English version of it is roughly 40 pages long; 2 is that correct? 3 A. That's correct. 4 Q. Is there anything in that manual anywhere 5 where it tells, Graco tells parents that it is okay 6 for the shoulder belt to be outside of the shoulder 7 belt guide when using a high back booster seat? 8 MR. KRASOVEC: Object to the form of the 9 question. 10 A. Not that I know of. 11 BY MR. GENTILE: 12 Q. Is there anything in the 40 pages of the 13 manual that suggests or even hints that Graco 14 believes it is okay for the shoulder belt to be 15 outside the shoulder belt guide when using a high 16 back turbobooster? 17 MR. KRASOVEC: Object to the form of the 18 question. 19 A. I don't see anything that said that that 20 would be okay. 21 BY MR. GENTILE: 22 Q. So essentially the rule that Graco is 23 conveying to parents with these diagrams that we've 24 just gone over is that if you're going to use a high 25 back turbobooster, they must use the should belt</p>	<p>1 Q. I'm going to hand you what's been marked 2 as Exhibit No. 27, which is a collection of 3 blueprints for the part. There were several, three 4 different versions of that. The part that's at 5 issue in this case is the second drawing in Exhibit 6 No. 27. Just satisfy yourself I'm correct about 7 that. 8 A. Wait a minute. Okay. So you're saying 9 hey, which one is this? 10 Q. Yeah. It should be the second, should be 11 that one. 12 A. That's correct. 13 Q. All right. Now can you tell by looking at 14 that blueprint, can you confirm what the type of 15 plastic is that that guide is made of? 16 A. There it is. CPP must meet Graco spec 17 PP03, polypropylene. 18 Q. So the PP stands for polypropylene? 19 A. Yes, I would believe so. 20 Q. As of January of 2005, sir, is it true 21 that you were personally involved in testing that 22 particular shoulder belt but that you were testing 23 guides made of an alternative plastic or resin and 24 that that testing was intended to find a way to keep 25 the shoulder belt from slipping out of the shoulder</p>
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<p>1 guide and they must keep the shoulder belt in the 2 guide until the child is ready to get out of the car 3 after the trip is over, there's no exceptions to 4 that rule ever; is that true? 5 MR. KRASOVEC: Object to the form of the 6 question. 7 A. That's correct. 8 BY MR. GENTILE: 9 Q. Now let's talk about the shoulder belt 10 guide for just a minute. And I'll represent to you 11 that Jermano's seat, the little girl whose case 12 we're here on today, involved this particular guide, 13 which in other depositions we've called the second 14 generation belt guide. Okay? 15 A. Okay. Second generation. 16 Q. It's the second generation and it's the 17 one that has the little -- I'll put it up this 18 way -- it's the one that has the little belt hook or 19 tab that we've talked about. 20 A. The L rib. 21 Q. The L rib. Okay. Do you know what type 22 plastic is specified in Graco's blueprint for that 23 part? 24 A. I believe its polypropylene but I don't 25 know for sure.</p>	<p>1 belt guide in tests? 2 A. Yes. 3 Q. And I'm going to hand you what's been 4 marked as Exhibit No. 50C, which I think you, I hope 5 you'll recognize it. 6 MR. KRASOVEC: Give me a second. Should 7 have this one. 8 MR. GENTILE: Yeah, we've used it. 9 MR. KRASOVEC: Okay. 10 BY MR. GENTILE: 11 Q. Sir, I've handed you what's been marked as 12 Exhibit No. 50C; is that right? 13 A. That's correct. 14 Q. And the top page of this particular 15 exhibit is what's known at Graco as a crash test 16 matrix and; is that right? 17 A. That's correct. 18 Q. And you are the requester of this matrix? 19 A. Yes, I am. 20 Q. It's dated January 17 of 2005? 21 A. That's correct. 22 Q. And the reason for the test is that the 23 turbobooster is being tested with Celcon, and that's 24 C-e-l-c-o-n, M90 for the belt guide material; is 25 that right?</p>

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